

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MILLARD WAYNE BAKER, JR.,

Plaintiff,

v.

LOZANO, et al.,

Defendants.

No. 1:24-cv-0716 KES GSA (PC)

ORDER VACATING IN PART ORDER AND  
FINDINGS AND RECOMMENDATIONS

(ECF No. 10)

ORDER DENYING PLAINTIFF'S REQUEST  
FOR AN EXTENSION OF TIME AS MOOT

(ECF No. 16)

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Before this Court are an order and findings and recommendations as well as Plaintiff's objections to them. ECF Nos. 10, 16 (respectively). In addition, within Plaintiff's objections is a request for an extension of time to file an in forma pauperis application. See ECF No. 16.

For the reasons stated below, the outstanding order and findings and recommendations order will be vacated in part. In addition, Plaintiff's motion for an extension of time to file a proper in forma pauperis application will be denied as moot.

1 I. BACKGROUND

2 On August 13, 2024, the Court issued findings and recommendations which recommended  
3 that this matter be dismissed for failure to obey court orders. ECF No. 10. The order was issued  
4 because Plaintiff had repeatedly failed to file a proper in forma pauperis application and a six-  
5 month prison trust fund account statement. See generally id.

6 Since the issuance of the order and findings and recommendations, Plaintiff has filed an in  
7 forma pauperis application as well as a six-month trust account statement. ECF Nos. 11, 13  
8 (respectively). As a result, he has been granted in forma pauperis status. ECF No. 14.

9 II. DISCUSSION

10 Given that Plaintiff's application to proceed in forma pauperis is now complete, the  
11 pending order and findings and recommendations will be vacated in part to the extent that it  
12 recommends dismissal for failure to obey court orders. In addition, Plaintiff's motion for an  
13 extension of time to file an application to proceed in forma pauperis will be denied as moot.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. The order and findings and recommendations issued August 13, 2024 (ECF No. 10)  
16 are VACATED IN PART to the extent that they recommend dismissal of this matter for failure to  
17 obey court orders, and

18 2. Plaintiff's motion for an extension of time that is requested in his objections (ECF No.  
19 16) are DENIED as moot.

20  
21  
22 IT IS SO ORDERED.

23  
24 Dated: August 31, 2024

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE